

### **IC 31-35-3**

#### **Chapter 3. Termination of Parent-Child Relationship With Individual Convicted of Criminal Offense**

### **IC 31-35-3-1**

#### **Application of chapter**

Sec. 1. This chapter applies to the termination of the parent-child relationship between an individual convicted of an offense listed in section 4(1) of this chapter and a child described in section 4(2) of this chapter.

*As added by P.L.1-1997, SEC.18.*

### **IC 31-35-3-2**

#### **Law governing proceedings**

Sec. 2. Proceedings under this chapter are governed by the procedures prescribed by:

- (1) IC 31-32-1, IC 31-32-4 through IC 31-32-10, and IC 31-32-12 through IC 31-32-15;
- (2) IC 31-34; and
- (3) IC 31-37;

but are distinct from proceedings under IC 31-34 and IC 31-37.

*As added by P.L.1-1997, SEC.18.*

### **IC 31-35-3-3**

#### **Jurisdiction**

Sec. 3. The probate court has concurrent original jurisdiction with the juvenile court in proceedings on a petition to terminate the parent-child relationship under this chapter.

*As added by P.L.1-1997, SEC.18.*

### **IC 31-35-3-4**

#### **Petition; conviction of certain offenses**

Sec. 4. If:

- (1) an individual is convicted of the offense of:
  - (A) murder (IC 35-42-1-1);
  - (B) causing suicide (IC 35-42-1-2);
  - (C) voluntary manslaughter (IC 35-42-1-3);
  - (D) involuntary manslaughter (IC 35-42-1-4);
  - (E) rape (IC 35-42-4-1);
  - (F) criminal deviate conduct (IC 35-42-4-2);
  - (G) child molesting (IC 35-42-4-3);
  - (H) child exploitation (IC 35-42-4-4);
  - (I) sexual misconduct with a minor (IC 35-42-4-9); or
  - (J) incest (IC 35-46-1-3); and
- (2) the victim of the offense:
  - (A) was less than sixteen (16) years of age at the time of the offense; and
  - (B) is:
    - (i) the individual's biological or adoptive child; or
    - (ii) the child of a spouse of the individual who has

committed the offense;  
the prosecuting attorney, the attorney for the county office of family and children, the child's guardian ad litem, or the court appointed special advocate may file a petition with the juvenile or probate court to terminate the parent-child relationship of the individual who has committed the offense with the victim of the offense, the victim's siblings, or any biological or adoptive child of that individual.  
*As added by P.L.1-1997, SEC.18.*

### **IC 31-35-3-5**

#### **Petition; verification and contents**

Sec. 5. The verified petition filed under section 4 of this chapter must:

- (1) be entitled "In the Matter of the Termination of the Parent-Child Relationship of \_\_\_\_\_, a child, and \_\_\_\_\_, the parent (or parents)"; and
- (2) allege that:
  - (A) the victim of an offense listed in section 4(1) of this chapter is:
    - (i) the subject of the petition;
    - (ii) the biological or adoptive sibling of the subject of the petition; or
    - (iii) the child of a spouse of the individual whose parent-child relationship is sought to be terminated under this article;
  - (B) the individual whose parent-child relationship is sought to be terminated under this article was convicted;
  - (C) the child has been removed:
    - (i) from the parent under a dispositional decree; and
    - (ii) from the parent's custody for at least six (6) months under a court order;
  - (D) there is a reasonable probability that:
    - (i) the conditions that resulted in the child's removal or the reasons for placement outside the parent's home will not be remedied; or
    - (ii) continuation of the parent-child relationship poses a threat to the well-being of the child;
  - (E) termination is in the best interests of the child; and
  - (F) there is a satisfactory plan for the care and treatment of the child.

*As added by P.L.1-1997, SEC.18.*

### **IC 31-35-3-6**

#### **Representation of state's interests**

Sec. 6. (a) The person filing the petition shall represent the interests of the state in all subsequent proceedings on the petition.

(b) Upon the filing of a petition under section 4 of this chapter, the attorney for the county office of family and children or the prosecuting attorney shall represent the interests of the state in all subsequent proceedings.

*As added by P.L.1-1997, SEC.18.*

#### **IC 31-35-3-7**

##### **Request for hearing; time**

Sec. 7. (a) The person filing the petition may request that the court set the petition for a hearing.

(b) Whenever a hearing on the petition is requested under this chapter, the court shall commence the hearing not more than ninety (90) days after a petition is filed under this chapter.

*As added by P.L.1-1997, SEC.18. Amended by P.L.35-1998, SEC.24.*

#### **IC 31-35-3-8**

##### **Conviction as prima facie evidence**

Sec. 8. A showing that an individual has been convicted of an offense described in section 4(1) of this chapter is prima facie evidence that there is a reasonable probability that:

- (1) the conditions that resulted in the removal of the child from the parent under a court order will not be remedied; or
- (2) continuation of the parent-child relationship poses a threat to the well-being of the child.

*As added by P.L.1-1997, SEC.18.*

#### **IC 31-35-3-9**

##### **Determination**

Sec. 9. (a) If the court finds that the allegations in a petition described in section 4 of this chapter are true, the court shall terminate the parent-child relationship.

(b) If the court does not find that the allegations in the petition are true, the court shall dismiss the petition.

*As added by P.L.1-1997, SEC.18.*